

CAUSE NO. CIV22-0366

Gina Moore, Deputy

BERKLEY JACKSON

Plaintiff,

v.

PATRICK ALLEN MCCORMICK
TRUE GRIT TRANSPORTATION, INC*Defendant.*§
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IN THE DISTRICT COURT

POLK COUNTY, TEXAS

411TH JUDICIAL DISTRICT**PLAINTIFF'S FIRST AMENDED PETITION**

Plaintiff Berkley Jackson (hereinafter, "Plaintiff") complains of Defendant Patrick Allen McCormick (hereinafter, "Defendant"), and would respectfully show the Court that:

Discovery Control Plan

1. Plaintiff intends to conduct discovery in this matter under Level 3 of the Texas Rules of Civil Procedure.

Jurisdiction and Venue

2. The claims asserted arise under the common law of Texas. This Court has jurisdiction and occurred in Polk County, Texas.

Statement Regarding Monetary Relief Sought

3. Pursuant to Texas Rule of Civil Procedure 47(c), Plaintiff seeks monetary relief over \$250,000.00 but not more than \$1,000,000.00, including damages of any kind, penalties, costs, expenses, pre-judgment interest and attorney's fees and judgment for all other relief to which Plaintiff is justly entitled. Plaintiff expressly reserves the right to amend this Rule 47 statement of relief if necessary.

Parties

4. Plaintiff Berkley Jackson is an individual residing in Fort Bend County, Texas.

5. Defendant, True Grit Transportation Inc. (Hereinafter, “Defendant True Grit”) is a Domestic For-Profit Corporation doing business in Polk County, Texas. Defendant True Grit may be served with process by serving any member, agent, or officer at 29516 S 4230 Rd, Inola, Oklahoma 74036.

6. Defendant Patrick Allen McCormick is an individual residing in Rogers County, Texas. Defendant may be served at his residence at 29516 S 4230 Rd, Inola, OK, 74036, or at 443954 E 340 Rd Vinita, OK 74301 or wherever he may be found.

7. Defendant CP and C Services Inc. (“CP and P”) is a business entity doing business in Polk County, Texas. Defendant CP and C Services Inc. may be served with process by serving any officer, member, or director at 443954 E 340 Rd, Vinita, OK 74301.

Facts

8. This lawsuit is necessary as a result of the personal injuries that Plaintiff suffered on or about April 30, 2022. At that time, Plaintiff was traveling by car North bound on US 59 in Polk County, Texas. Defendant was also traveling North bound on US 59 in the left lane in Polk County, Texas directly behind Plaintiff’s vehicle. Defendant failed to control his vehicles speed and maintain a single lane, subsequently crossing into Plaintiff’s lane and colliding with the left side of Plaintiff’s vehicle. As a result of Defendant’s negligence and/or negligence *per se*, Plaintiff suffered serious and permanent injuries.

9. Defendants’ aforementioned conduct constitutes negligence and/or negligence *per se* for one or more of the following reasons:

- a) Failing to control the vehicle’s speed;
- b) Failed to timely apply his brakes
- c) Failed to yield right-of-way;
- d) Failing to operate the vehicle safely;

- e) Failing to turn the vehicle in an effort to avoid a collision;
- f) Failing to maintain a proper lookout in order to avoid a collision;
- g) Failing to maintain a safe distance;
- h) Failing to make a proper lane change;
- i) Violating applicable, local, state, and federal laws and/or regulations; and
- j) Other acts so deemed negligent.

10. Defendant Patrick was driving a vehicle owned by Defendant True Grit. At all times material hereto, Defendant Patrick, was operating the vehicle in the course and scope of his employment with Defendant True Grit. As such, Defendant True Grit, is vicariously liable for Defendant Patrick's negligent acts and omissions under the doctrine of *respondent superior*. Plaintiff further plead Defendant True Grit was negligent and/or negligent *per se* for one or more of the following reasons:

- a. Negligently entrusted a motor vehicle to an incompetent driver;
- b. Negligently hired and/or retained employees;
- c. Negligently trained and/or supervised employees;
- d. Failed to maintain the vehicle in a reasonably safe condition;
- e. Violated applicable, local, state and federal laws and/or regulations;
- f. Other acts so deemed negligent.

11. As a result of these acts or omissions, Plaintiff claims all damages recognizable by law.

Damages

12. By virtue of the actions and conduct of the Defendants set forth above, Plaintiff is seriously injured and is entitled to recover the following damages:

- a. Past and future medical expenses;

- b. Past and future pain, suffering and mental anguish;
- c. Past and future physical impairment;
- d. Past and future physical disfigurement;
- e. Past lost wages and future loss of earning capacity.

13. By reason of the above, Plaintiff is entitled to recover damages from the Defendants in an amount within the jurisdictional limits of this Court, as well as pre and post-judgment interest.

Duty to Disclose

14. Pursuant to 194, Tex. R. Civ. P. exempted by Rule 194.2(d), Defendant must, without awaiting a discovery request, provide to Plaintiff the information or material described in Rule 194.2, Rule 194.3, and Rule 194.4.

Initial Disclosures

15. Pursuant to Rule 194, Tex. R. Civ. P., Defendant must, without awaiting a discovery request, provide information or materials described in Texas Rule of Civil Procedure 194.2 in Defendant's initial disclosure at or within 30 days after the filing of the first answer. Copies of documents and other tangible things must be served with Defendant's response.

Rule 193.7 Notice

16. Plaintiff hereby gives actual notice to Defendant that any and all documents produced may be used against Defendant at any pre-trial proceeding and/or at trial of this matter without the necessity of authenticating the documents.

Prayer

Plaintiff prays that these citations issue and be served upon Defendants in a form and manner prescribed by law, requiring that Defendants appear and answer, and that upon final hearing, Plaintiff has judgment against Defendants, both jointly and severally, in a total sum in

excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post judgment interests, all costs of Court, exemplary damages, and all such other and further relief, to which he may be justly entitled.

Respectfully submitted,

DASPIT LAW FIRM

/s/Kiernan McAlpine

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Automated Certificate of eService

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